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SUBJECT: BIT TALKS: LIMITED PROGRESS DURING KUFUOR VISIT

REF: STATE 91791

11. SUMMARY: (SBU) Exploratory discussions regarding a U.S.-Ghana Bilateral Investment Treaty (BIT) will likely generate only limited progress during President Kufuor's state visit to the United States (starting September 14, 2008). The Kufuor Administration is shifting into election mode and shying away from initiating major new international agreements. Robert Ahomka-Lindsay, CEO of the Ghana Investment Promotion Centre (a key advisor to Kufuor) stated that labor and environmental provisions in the U.S. model BIT would require further consultations with additional GOG ministries. While not dismissing the possibility of concluding a BIT in the future, Ahomka-Lindsay suggested that a double-taxation agreement with the U.S. was a higher priority. He lamented the unfulfilled potential of AGOA, and discussed his agency's priorities for attracting new investment to Ghana and increasing Ghana's exports to the U.S. Post believes the Ghana delegation is now hoping for a credit agreement with the EXIM Bank as an economic take-away from the visit.  
END SUMMARY.

#### BACKGROUND

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12. (SBU) An initial digital video conference was held on August 21 to discuss differences between the US and Ghana model BIT texts. REFTEL dipnote was developed to formally restate three key USG questions to the GOG for the purpose of assessing mutual interest in undertaking formal BIT negotiations: 1) the acceptability of using the U.S. BIT model as a basis for negotiations, 2) an assessment of the challenging provisions of the U.S. BIT model, and 3) a list of potential non-conforming measures Ghana may propose in the course of a BIT negotiation. REFTEL demarche was delivered. Despite the implicit time pressures to reach a decision regarding mutual interest in negotiating a BIT prior to President Kufuor's visit to the United States, none of the three key questions were answered by the GOG in writing.

GIPC CEO: NOT CHOMPING AT THE BIT

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13. (SBU) To solicit feedback on the BIT, EMBOFFs called on Robert Ahomka-Lindsay, CEO of the Ghana Investment Promotion Centre. Ahomka-Lindsay has served as CEO of the GIPC for nearly two years, following retirement from serving as Coca-Cola's VP for Africa.

14. (SBU) Ahomka-Lindsay tacitly conceded to the U.S. model for any potential negotiations, but noted that labor and environmental provisions were absent from Ghana's model BIT text (and other concluded BITs). He said that the labor and environmental provisions posed significant challenges and would require consultations with additional

ministries, which would take additional time. He pressed EMBOFFS for a formal memo outlining the differences between the U.S. and Ghana models. EMBOFFS explained that USTR does not provide such analysis. Questioning the benefits of a BIT for Ghana, Ahomka-Lindsay expressed that a BIT is less important to corporate decision makers than tax considerations. Accordingly, he posited that a double-taxation agreement with the U.S. would be more useful to spur investment than negotiating a BIT. According to Ahomka-Lindsay, QAGOA gives us more than any BIT.

#### GIPC CEO: THE POTENTIAL OF AGOA IS UNFULFILLED

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15. (SBU) Ahomka-Lindsay repeatedly stated that the economic potential created by the AGOA agreement has not been fulfilled. He offered that the lack of foreign direct investment was a key problem Q- Ghana needs to start producing more diversified goods for the U.S. market. He cited a statistic that U.S. FDI outside the extractive industries has been less than \$30 million since AGOA was signed. In contrast with GhanaQs exports to Europe, Ahomka-Lindsay also blamed the low level of U.S.-Ghana trade on deficiencies in transportation, including an insufficient number of direct flights for cargo, lack of direct container shipments, and JFKQs inefficient processing of fresh produce.

16. (SBU) Under Ahomka-LindsayQs leadership, the GIPC is planning relationship-based investment promotion efforts with targeted multinationals and within targeted industries: agri-business, IT, tourism, financial services, professional services, manufacturing, petroleum, infrastructure and utilities. In addition, the GIPC is exploring establishing trade promotion offices in the United States, China, Germany and India. COMMENT: Marketing aside, it is unclear how much government attention is being paid to making the ground-level reality of investing in Ghana efficient and hassle-free. END COMMENT.

#### COMMENT

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17. (SBU) A Kufour appointee with ties to the PresidentQs inner circle, Robert Ahomka-Lindsay heads the lead technical negotiating entity for the GOG on investment agreements, and is among the key advisors accompanying President Kufuor on the upcoming state visit to the U.S. Given Ahomka-LindsayQs personal forcefulness, proximity to Kufuor, U.S. MBA, and international corporate experience, his assessments and opinions are likely to significantly inform the GOGQs economic goals during this visit. GhanaQs Foreign Ministry does not play a strong role in international economic policy making, and may have initiated talks on a BIT without the benefit of inter-ministerial consultations in Accra. As the Kufour Administration shifts into election mode, substantive discussions and decisions on any major international agreements will likely not be possible until after the formation of a new administration next year. According to contacts in the Ministry of Finance and Economic Planning, the PresidentQs delegation will try to finalize a credit agreement with the U.S. EXIM Bank as an economic take-away from the visit.

Teitelbaum